

Gouvernement du Québec

Décret 246-2000, 8 mars 2000

Code des professions
(L.R.Q., c. C-26)

Psychologues

— Procédures de conciliation et d'arbitrage des comptes

— Modifications

CONCERNANT le Règlement modifiant le Règlement sur la procédure de conciliation et d'arbitrage des comptes des psychologues

ATTENDU QUE, en vertu de l'article 88 du Code des professions (L.R.Q., c. C-26), le Bureau d'un ordre professionnel doit déterminer, par règlement, une procédure de conciliation et d'arbitrage des comptes des membres de l'Ordre que peuvent utiliser les personnes recourant aux services de ceux-ci;

ATTENDU QUE, en vertu de ce même article, le règlement doit contenir, entre autres:

1^o des dispositions permettant à une personne de se prévaloir de cette procédure si elle a déjà acquitté le compte en tout ou en partie;

2^o des dispositions prévoyant la constitution d'un conseil d'arbitrage et permettant à ce conseil de déterminer, s'il y a lieu, le remboursement auquel une personne peut avoir droit;

3^o des dispositions prévoyant que l'arbitrage des comptes puisse se dérouler devant un conseil d'arbitrage formé d'un ou trois arbitres, selon le montant en litige que ce règlement indique;

ATTENDU QUE le Règlement sur la procédure de conciliation et d'arbitrage des comptes des psychologues a été approuvé par le décret n^o 145-2000 du 16 février 2000;

ATTENDU QU'il y a lieu de remplacer le texte anglais de ce règlement;

ATTENDU QUE, en vertu de l'article 12 de la Loi sur les règlements (L.R.Q., c. R-18.1), un projet de règlement peut être approuvé sans avoir fait l'objet de la publication prévue à l'article 8 de cette loi lorsque l'autorité qui l'approuve est d'avis que l'urgence de la situation l'impose;

ATTENDU QUE, en vertu de l'article 13 de cette loi, le motif justifiant l'absence de publication préalable doit être publié avec le règlement;

ATTENDU QUE, de l'avis du gouvernement, l'urgence due aux circonstances suivantes justifie l'absence de la publication préalable;

— les modifications apportées par le gouvernement au règlement adopté par le Bureau de l'Ordre des psychologues du Québec n'ont pas été introduites dans la version anglaise du règlement et il est impératif d'apporter sans délai les corrections nécessaires compte tenu que ce règlement a été approuvé par le gouvernement le 16 février 2000 et qu'il doit être publié dans les 30 jours de cette approbation en vertu de l'article 11.1 de la Loi sur l'exécutif (L.R.Q., c. E-18) pour ensuite entrer en vigueur dans les 15 jours suivant cette publication;

IL EST ORDONNÉ, en conséquence, sur la recommandation de la ministre responsable de l'application des lois professionnelles:

QUE le Règlement sur la procédure de conciliation et d'arbitrage des comptes des psychologues, dont le texte est annexé au présent décret, soit approuvé.

Le greffier du Conseil exécutif,

MICHEL NOËL DE TILLY

Règlement modifiant le Règlement sur la procédure de conciliation et d'arbitrage des comptes de psychologues

Code des professions
(L.R.Q., c. C-26, a. 88)

1. Le Règlement sur la procédure de conciliation et d'arbitrage des comptes des psychologues, approuvé par le décret n^o 145-2000 du 16 février 2000, est modifié par le remplacement du texte anglais par le suivant:

« Regulation respecting the conciliation and arbitration procedure for the accounts of psychologists

Professional Code
(R.S.Q., c. C-26, s. 88)

DIVISION I GENERAL

1. A client or a person who has a dispute with a psychologist concerning the amount of an account for professional services may, even if the amount has been paid in full or in part, request conciliation by the syndic.

Where the dispute is not settled by conciliation, the client or the person may apply for arbitration.

2. The syndic of the Ordre des psychologues du Québec shall send a copy of this Regulation to any person who applies for conciliation, as well as the form prescribed in Schedule I.

In this Regulation, “syndic” includes the assistant syndic and the corresponding syndic of the Order.

3. A psychologist may not institute proceedings concerning an account:

(1) before the expiry of the 45-day period provided for the application for conciliation in the first paragraph of section 4;

(2) if there is an application for conciliation, before the expiry of the 30-day period provided for the application for arbitration in the first paragraph of section 10;

(3) if there is an application for arbitration, until a decision is rendered by the council of arbitration.

However, the syndic may authorize proceedings concerning an account if there is any risk that, without those proceedings, the fees could not be recovered.

DIVISION II

CONCILIATION PROCEDURE

4. An application for conciliation must be sent to the syndic on the form prescribed in Schedule I within 45 days from the date on which the client received the account.

Where the payment of the account has been withdrawn or withheld by the psychologist from the funds that he holds or receives for or on behalf of the client, the period runs from the day on which the client becomes aware of the withdrawal or withholding.

An application for conciliation in respect of an account for which no payment, withdrawal or withholding has been carried out may be sent to the syndic after the expiry of 45 days provided that it is sent before the client is served with proceedings concerning the account.

5. Upon receipt of an application for conciliation, the syndic shall notify the psychologist personally or, if unable to do so, shall notify his firm.

6. The syndic shall proceed with the conciliation using such procedure as he considers appropriate.

For that purpose, he may request of the psychologist or of the client or of the person referred to in section 1 any information or document that he deems necessary.

7. Any agreement reached during conciliation shall be put in writing on a form similar to that prescribed in Schedule II, shall be signed by the client or the person referred to in section 1 and by the psychologist and shall be filed with the syndic.

8. Where conciliation does not lead to an agreement within 45 days from the date of receipt of the application, the syndic shall send his conciliation report to the client or the person referred to in section 1 and to the psychologist by registered mail within the next 20 days.

The report shall contain the following information, where applicable:

1. the amount of the account in dispute;
2. the amount that the client or the person referred to in section 1 acknowledges owing;
3. the amount that the psychologist acknowledges having to reimburse or is willing to accept as a settlement of the dispute;
4. the reason for which this Regulation does not apply to the application.

The syndic shall send the client or the person referred to in section 1 the form prescribed in Schedule III and shall inform him of the arbitration procedure and the deadline for submitting the dispute.

9. The syndic may, for valid reasons, extend the deadlines provided for in this Division. In such case, he shall inform the client or the person referred to in section 1 and the psychologist.

DIVISION III

ARBITRATION PROCEDURE

§1. Application for arbitration

10. Where the conciliation procedure did not lead to an agreement, the client or the person referred to in section 1 may, within 30 days of receiving the conciliation report, apply for arbitration of the account by sending the duly completed form prescribed in Schedule III to the secretary of the Order.

The application shall be accompanied by the conciliation report and, if applicable, the deposit of the amount that he acknowledged owing during conciliation, as stated in the syndic’s report.

11. Upon receipt of an application for arbitration, the secretary of the Order shall send a notice to the

psychologist in question by registered mail. If applicable, the notice shall be accompanied with the amount deposited in accordance with section 10. The arbitration shall proceed, pertaining only to the amount still in dispute.

12. An application may only be withdrawn in writing and with the consent of the psychologist.

13. A psychologist who acknowledges having to reimburse an amount shall deposit that amount with the secretary of the Order who shall then remit it to the client or to the person referred to in section 1.

In such case, the arbitration shall proceed and shall pertain only to the amount still in dispute.

14. Any agreement reached between the client or the person referred to in section 1 and the psychologist after the application for arbitration has been filed shall be put in writing, on a form similar to that prescribed in Schedule II, shall be signed by the parties and shall be filed with the secretary of the Order.

If the agreement is reached after the council of arbitration has been formed, the agreement shall be recorded in the arbitration award.

§2. Appointment of the council of arbitration

15. The council of arbitration shall be composed of three arbitrators where the amount in dispute is \$2500 or more, and of a single arbitrator where the amount is less than \$2500.

16. The administrative committee shall appoint the member or members of the council of arbitration from among the members of the Order and, if the council is composed of three arbitrators, shall designate the chairperson thereof.

17. The secretary of the Order shall send written notice to the arbitrators and to the parties informing them of the formation of the council.

18. Before acting, the member or members of the council of arbitration shall take the oath or make the solemn affirmation of office and discretion prescribed in Schedule IV.

19. A request that an arbitrator be recused may be filed only for a reason provided for in article 234 of the Code of Civil Procedure. The request shall be sent to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 10 days of receipt of the notice referred to in section 17 or of the day on which the reason for the request becomes known.

The administrative committee shall decide on the request and, where applicable, shall see that the arbitrator is replaced.

20. Should an arbitrator die or be unable to act, the other arbitrators shall bring the matter to completion. Where the arbitrator is the chairperson of the council of arbitration, the administrative committee shall designate one of the two other arbitrators to act as chairperson.

If the council consists of a single arbitrator, a new arbitrator shall replace him and the dispute shall be reheard.

§3. Hearing

21. The council of arbitration shall fix the date, time and place of the hearing and shall give the parties at least 10 days notice of the date of the hearing by registered mail.

22. The parties are entitled to be represented or assisted by an advocate.

23. The council of arbitration shall, as soon as possible, hear the parties, receive their evidence or record any default on their part. For those purposes, it shall follow such rules of procedure and rules of evidence as it considers appropriate.

24. The council may ask the parties to submit, within a given time limit, a statement of their claims with supporting documents.

25. The chairperson shall draw up the minutes of the hearing and shall have them signed by the other members of the council, if applicable.

26. The party requesting that the testimony be recorded shall assume the organization and cost thereof.

§4. Arbitration award

27. The council shall issue its award within 60 days of the end of the hearing.

28. The award shall be a majority award of the members of the council of arbitration; failing that, it shall be granted by the chairperson of the council.

The award shall give reasons and shall be signed by all the members. Where a member refuses or is unable to sign, the others shall mention that fact and the award shall have the same effect as though all the members signed it.

29. In its award, the council of arbitration may uphold, reduce or cancel the amount of the account in dispute, determine the reimbursement or payment to which a party is entitled, and rule on the amount that the client or the person referred to in section 1 acknowledged owing.

Where the account in dispute is upheld in whole or in part, or where a reimbursement is granted, the council of arbitration may add thereto the interest and indemnity determined in accordance with the terms and conditions of articles 1618 and 1619 of the Civil Code of Québec, from the date of the application for conciliation.

The council may also decide the arbitration expenses, which are the expenses incurred by the Order for the arbitration. The total expenses may not exceed 15 % of the amount of the account. However, in any case where the expenses are awarded, those expenses shall equal a minimum of \$50.

Where an agreement is reached between the parties before the council of arbitration renders its decision, the council shall still award the arbitration expenses in accordance with this section.

30. The arbitration award is final, without appeal and binding on the parties and is subject to compulsory execution in accordance with the procedure provided for in articles 946.1 to 946.5 of the Code of Civil Procedure.

31. The council of arbitration shall file the arbitration award with the secretary of the Order, who, within 10 days, shall send a true copy thereof to the parties or their advocates, to the syndic and to the administrative committee.

32. The cost incurred by a party for the arbitration shall be borne by that party.

DIVISION IV FINAL PROVISIONS

33. This Regulation replaces the Regulation respecting the procedure for conciliation and arbitration of accounts of psychologists (R.R.Q., 1981, c. C-26, r. 151); however, the latter Regulation continues to govern the conciliation and arbitration procedure for disputes where conciliation was applied for before the coming into force of this Regulation.

34. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I

(ss. 2 and 4)

APPLICATION FOR CONCILIATION

I, the undersigned, _____
(name and domicile of the client)

declare that:

1. _____
(name and professional domicile of the psychologist)
has claimed from me the sum of _____ for
professional services rendered between _____
and _____ as attested to by:

(Check the appropriate box)

the account, a copy of which is attached hereto.

the document, a copy of which is attached hereto,
indicating that the sum was withdrawn or withheld.

2. I am contesting the sum claimed for the following reasons:

but (where applicable) I acknowledge owing the sum of _____ for professional services rendered.

(Check the appropriate box)

3. I did not pay the account

I paid the account in full

I paid the account up to the sum
of _____

4. I hereby apply for conciliation by the syndic, pursuant to Division II of the Regulation respecting the conciliation and arbitration procedure for accounts of psychologists.

Signed on _____
(Signature of the client)

“4. An application for conciliation must be sent to the syndic on the form prescribed in Schedule I within 45 days from the date on which the client received the account.

Where the payment of the account has been withdrawn or withheld by the psychologist from the funds that he holds or receives for or on behalf of the client, the period runs from the day on which the client becomes aware of the withdrawal or withholding.

An application for conciliation in respect of an account for which no payment, withdrawal or withholding was made may be sent to the syndic after the expiry of 45 days provided that it is sent before the client is served with proceedings concerning the account.”.

SCHEDULE II

(ss. 7 and 14)

AGREEMENT RELATIVE TO A DISPUTE SUBMITTED FOR CONCILIATION OR ARBITRATION

_____ (name and domicile of the client)

hereinafter referred to as “the client”, and

_____ (name and professional domicile of the psychologist) hereinafter referred to as “the psychologist”, who declare and agree to the following:

An agreement was entered into by the client and the psychologist concerning the dispute submitted for _____ applied for on _____ (conciliation or arbitration) (date)

The agreement provides for the following terms and conditions:

The client and the psychologist request that the procedures relating to the dispute referred to above be stayed.

Signed at _____ Signed at _____ (place) (place)
on _____ on _____ (date) (date)

(signature of the client) (signature of the psychologist)

Signed at _____ (place)
on _____ (date)

(signature of the syndic or the chairperson of the arbitration council)

SCHEDULE III

(ss. 8 and 10)

APPLICATION FOR ARBITRATION OF AN ACCOUNT

I, the undersigned, _____ (name of the client)
_____ (domicile)

declare that:

1. _____ (name of the psychologist) is claiming from me (or refuses to reimburse me) a sum of money for professional services.
2. I have enclosed a copy of the conciliation report and, where applicable, a certified cheque payable to the psychologist, in the amount of _____, which represents the sum of the money that I acknowledge owing and that is stated in the conciliation report.
3. I am applying for arbitration of the account under the Regulation respecting the conciliation and arbitration procedure for the accounts of psychologists.
4. I have received a copy of the above Regulation and have taken cognizance thereof.
5. I agree to submit to the procedure provided for in the Regulation and, where required, to pay to _____ (name of the psychologist) the amount of the arbitration award.

Signed on _____ (signature of the client)

SCHEDULE IV

(s. 18)

**OATH OR SOLEMN AFFIRMATION OF OFFICE
OR DISCRETION**

I swear (or solemnly affirm) to perform all my duties and to exercise all my powers as an arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I swear (or solemnly affirm) that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.

Where an oath is taken, add: "So help me God."

(signature of the arbitrator)

Oath or solemn affirmation sworn before me

(name and position, profession or capacity)

at _____ on _____
(municipality) (date)

(signature of person administering
oath or solemn affirmation).»

2. Le présent règlement entre en vigueur le quinzième jour qui suit la date de sa publication à la *Gazette officielle du Québec*.

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